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SAFE DEPOSIT COMPANIES.

(a) *Laws governing storage of valuables for which receipts are issued.*

IN many communities the safe deposit vault offers the only place of safety for the storage of packages of silver and other valuables too bulky to be conveniently kept in the ordinary safe deposit box. Many safe depositories in some of the larger cities make a special feature of this business. The business differs from the ordinary renting of safes or boxes in that receipts are issued by the depository for the valuables stored, and the relationship existing between the depository and the depositor is somewhat different from the relationship existing between the parties under the ordinary contract of rental of a safe deposit box.

Under the Safe Deposit Law of the State of New York (New York Banking Laws, Sec. 331) depositories are expressly made subject to the Warehousemen's Law of that State in cases where receipts are issued for valuables stored. The liability of the depository in this respect is set out in Sec. 107 of the General Business Law, Art. 9, New York laws of 1909 as amended. New York depositories, which, in addition to the ordinary business of renting safes or boxes, store valuables and issue receipts therefor are subject to both the Safe Deposit Statute and the Warehousemen's Statute of that State because of the dual nature of the business. As to the ordinary renting of safes or boxes the depository is subject to the Safe Deposit Statute,¹ but as to valuables for which receipts are issued, the depository is subject to the New York Warehousemen's Law,² New York General Business Law Secs. 90 to 143 inclusive.

Very few states, other than New York, have enacted a special code of laws governing safe deposit companies as distin-

¹ New York Banking Law, §§ 315-331 *Incl.*

² See New York Banking Law Sec. 331.

guished from other corporations. Depositories of such states are therefore governed by the general banking and warehousemen's laws of those states.

The Uniform Warehousemen's Law adopted by some forty or more states, including New York State, defines a warehouseman as a "person lawfully engaged in the business of storing goods for profit". In the states which have adopted the Uniform Warehousemen's Act safe depositories engaged in the business of storing valuables for which receipts are issued, are governed by that Act in the absence of special safe deposit statutes.

(b) Form and contents of receipts.

The New York Warehousemen's Act provides that the receipt issued for goods stored shall contain certain provisions but does not prohibit the use of other provisions provided they do not conflict with the conditions required by the Act.³

Below is the Standard Form of Storage Receipt adopted by the New York State Safe Deposit Association. This contains all the requirements of the New York Warehouse Receipts Act, and will comply with the law in any State where the Uniform Warehouse Law is in effect.

NEW YORK SAFE DEPOSIT COMPANY.

No. New York 19 ..

Received of

P. O. Address

for storage in the Vaults of said Company at the above address, deliverable to the depositor on demand, the following packages, contents unknown but described by the depositor as

.
.

Valued by the depositor at \$. . . . for which the depositor agrees to pay a charge of \$. . . . per month for storage.

Advances for Express or other charges \$. . . .

When valuation is not given THE LIABILITY OF THE DE-

³ Sec. 91 New York General Business Law.

POSITORY IS LIMITED TO ONE HUNDRED DOLLARS.

This receipt is not transferrable except by assignment endorsed hereon and approved by the depository.⁴

.....

A receipt may be negotiable or non-negotiable; but if non-negotiable, the words "not negotiable" or "non-negotiable" must be plainly inscribed on the face of the receipt.⁵

Experience has shown that a negotiable receipt is unsatisfactory in many respects, as such receipt may be passed from one person to another by endorsement, without notice to the depository in the same manner as an ordinary check.⁶ The provisions of Section 94 of the New York General Business Law providing that warehouse receipts not having the word "non-negotiable" may be transferred by endorsement, imports to such a receipt so transferred negotiable qualities so far as to protect the purchaser and lienor, irrespective of the validity of the transfer as between the immediate parties thereto. Any bona fide transfer to a purchaser vests the title to the property specified in the receipt in the latter, together with all remedies of the former owner against the warehouseman for a failure to make due delivery. For this reason, the depository must cancel or mark the negotiable receipt when the goods or part thereof are delivered, otherwise the warehouseman will be liable to any bona fide purchaser for failure to deliver all or any part of the goods specified in the receipt, whether such purchaser acquired the title to the receipt before or after the delivery of all or any of the goods by the warehouseman.

A non-negotiable receipt, although it may be transferred by the holder thereof, yet the purchaser of the receipt acquires no rights other than those which the original depositor held against the warehouseman.⁷ In other words, the non-negotiable receipt cannot be negotiated by the holder thereof so as to prevent the warehouseman from asserting against the purchaser any and

⁴ The words "not negotiable" should be printed across the face of this receipt.

⁵ Secs. 91, 92 and 94 New York General Business Law.

⁶ Secs. 122 and 124 New York General Business Law.

⁷ Sec. 123 New York General Business Law.

all equities which it may hold against the original depositor of the goods. Furthermore, in order for the purchaser of a non-negotiable receipt to obtain any rights whatsoever against the warehouseman, he must give the warehouseman notice of his acquisition. The General Warehouse Law provides that a person to whom a receipt has been transferred acquires thereby, as against the transferor, the title to the goods subject to the terms of any agreement with the transferor. Such person also acquires the right to notify the warehouseman of the transfer to him of such receipt, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt. Prior to the notification of the warehouseman by the transferor or transferee of a non-negotiable receipt, the title of the transferee to the goods and the right to acquire the obligations of the warehouseman may be defeated by the delivery of an attachment upon the goods by a creditor of the transferor, or by notification communicated to the warehouseman by the transferor, or a subsequent purchaser from the transferor or a subsequent sale of the goods by the transferor.

(c) Care required of the depository and extent of its liability.

The Uniform Warehousemen's Law mentioned above as having been adopted by some forty or more states including the State of New York, requires in substance that a warehouseman shall exercise such care in the protection of goods stored with it as a reasonably careful owner of similar goods would exercise.⁸ Under this clause the liability of the depository is not that of an insurer of the goods against losses in the same manner as a common carrier. In the event of loss if the depository can show that it exercised reasonable care in the manner stated above, it cannot be held liable for the damages suffered. The depository, however, may by special agreement, increase its responsibility beyond that which is required by the statute, and many depositories go so far as to make themselves insurers of goods stored by guaranteeing against loss by fire, theft and other causes.

⁸ New York General Business Law, Sec. 107.

In accepting goods for storage, it is recommended that the depositor be required to state a value. This will protect the warehouseman against claim for excessive values in the event of loss, the depositor being estopped to claim more than the value which he originally stated. The valuation also enables the company to determine correctly and fairly its rate of charges. The company's responsibility, of course, varies directly with the value of the article stored, and the greater the value of the article and correspondingly the responsibility of the company, the greater should be the storage charges. Furthermore, if a value is declared, the depository is put on notice as to the measure of precaution it should exercise in protecting the property. A high valuation for the size of the package may be an indication that the package contains jewels or laces, and should be stored by the company in a safe instead of under conditions affording less security.

(d) Suggestions of precaution.

In handling such property, it is important to protect each package so that there may be an absolute certainty that access be had only by the person duly authorized. This brings up the question of the proper method of sealing the package. Years ago tape and sealing wax were used, but wax was early found to be insecure in the handling of such packages. The old fashioned cord and lead seal were substituted, but the seal press being in the hands of the depository and every seal being identical, this method offered no security at all. It was not until the tin button seal was used, each seal having a separate number, that any degree of security was obtained. The proper method of handling such a system is to record the number of the seal used when the package is first received, and when access is granted the old seal should be destroyed and a new seal used, the destruction of the old seal and the number of the new seal both being recorded. Thus a complete and detailed record is kept. If a seal is found bearing an unrecorded number, it is an indication that the package has been opened without authority, or that there has been carelessness in keeping the records.

The button seal underwent several changes but it had the ob-

jection that a special tool or press was required to affix it, and this might be misplaced.

A new tin seal has been recently perfected which encloses the knot with which the cord is tied, which seal consists of two cups, one fitting exactly inside of the other. These cups are so constructed that when the outer one is snapped on over the inner one, the seal cannot be opened without destroying it. Unless the knot is large, this seal can be pressed with the fingers. If this be not possible, an ordinary pair of plyers will secure it. These seals also have separate numbers. With the use of such a seal, in the event of claim for loss, the record of the seal numbers is strong evidence that the package has not been opened, unless as stated before, the record has been broken by a failure to enter every seal on the package.

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